

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Hyun-Jei Chung et al

Serial No. 10/791,269

Group Art Unit: 1745

Confirmation No. 8941

Filed: March 3, 2004

Examiner: Robert W. Hodge

For: POUCH-TYPE LITHIUM, SECONDARY BATTERY AND FABRICATION METHOD
THEREOF

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

This is responsive to the Office Communication mailed May 8, 2007, having a period for response set to expire on June 8, 2007, the following remarks are provided.

I. Provisional Election of Claims Pursuant to 37 CFR §1.142

Applicants provisionally elect **group I, including claims 1-8 and 12-15, and, of that group, species 1, including claims 1-8, and, of that species, claims 2 and 4**, in response to the preliminary restriction requirement set forth in the Office Action.

II. Applicants Traverse the Requirement

Insofar as the elections within Group I are concerned, it is believed that claims 1-8 and 12-15 are so closely related to each other that they should remain in the same application. The elected claims and non-elected claims are all directed to a pouch type lithium secondary battery and there have been no references cited to show any necessity for requiring restriction.

Insofar as Group II is concerned, it is believed that claims 9-11 are so closely related to the elected claims that they should remain in the same application. The elected claims are directed to a pouch type lithium secondary battery and claims 9-11 are drawn to a method of fabricating a lithium secondary battery. There have been no references cited to show any necessity for requiring restriction and, in fact, it is believed that the Examiner would find references containing both method and apparatus claims in the same field of technology. While

it is noted that the Examiner has identified different classifications for the product and method claims, it is believed that classification is not conclusive on the question of restriction. It is believed, moreover, that evaluation of both sets of claims would not provide an undue burden upon the Examiner at this time in comparison with the additional expense and delay to Applicants in having to protect the additional subject matter recited by the Group II claims by filing a divisional application.

MPEP §803 sets forth the criteria for restriction between patentably distinct inventions. (A) indicates that the inventions must be independent (see MPEP §802.01, §806.04, §808.01) or distinct as claimed (see MPEP §806.05-806.05(i)); and (B) indicates that there must be a serious burden on the Examiner if restriction is required (see MPEP §803.02, §806.04(a)- §806.04(i), §808.01(a) and §808.02). The Examiner has not set forth why there would be a serious burden if restriction is required.

III. Conclusion

Upon review of references involved in this field of technology, when considering that the method recited by the Group II claims is directed to fabricating a lithium secondary battery, and the elected claims are directed to a pouch type lithium secondary battery, and when all of the other various facts are taken into consideration, it is believed that upon reconsideration of the Examiner's initial restriction requirement, all of the pending claims should be examined in the subject application.

If any further fees are required in connection with the filing of this Amendment, please charge the same to our deposit account number 503333.

Should any questions remain unresolved, the Examiner is requested to telephone Applicants' attorney.

Respectfully submitted,
STEIN, MCEWEN & BUI, LLP

Date: 6/5/07

By: *Douglas X. Rodriguez*
Douglas X. Rodriguez
Registration No. 47,269

1400 Eye Street, NW
Suite 300
Washington, DC 20005
Telephone: (202) 216-9505
Facsimile: (202) 216-9510